

HOUSE HEALTH AND GOVERNMENT AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 942

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
ADDING COMMISSIONED MEMBERS OF THE NEW MEXICO MOUNTED PATROL TO
THE DEFINITION OF LAW ENFORCEMENT OFFICER IN THE CRIMINAL
PROCEDURE ACT AND TORT CLAIMS ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 31-1-2 NMSA 1978 (being Laws 1972,
Chapter 71, Section 5, as amended) is amended to read:

"31-1-2. DEFINITIONS.--Unless a specific meaning is
given, as used in the Criminal Procedure Act:

A. "accused" means any person charged with the
violation of any law of this state imposing a criminal penalty;

B. "bail bond" is a contract between surety and the
state to the effect that the accused and the surety will appear
in court when required and will comply with all conditions of

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1 the bond;

2 C. "defendant" means any person accused of a
3 violation of any law of this state imposing a criminal penalty;

4 D. "felony" means any crime so designated by law or
5 if upon conviction thereof a sentence of death or of
6 imprisonment for a term of one year or more is authorized;

7 E. "person", unless a contrary intention appears,
8 means any individual, estate, trust, receiver, cooperative
9 association, club, corporation, company, firm, partnership,
10 joint venture, syndicate or other entity;

11 F. "police officer", "law enforcement officer",
12 "peace officer" or "officer" means any full-time salaried
13 officer who by virtue of [~~his~~] office or public employment is
14 vested by law with the duty to maintain the public peace or a
15 commissioned member of the New Mexico mounted patrol who is
16 assisting a law enforcement agency in accordance with Section
17 29-6-4 or 29-6-5 NMSA 1978 or who is called into service by the
18 governor in accordance with Section 29-6-6 NMSA 1978;

19 G. "recognizance" means any obligation of record
20 entered into before a court requiring the accused to appear at
21 all appropriate times or forfeit any bail and be subject
22 [~~himself~~] to criminal penalty for failure to appear;

23 H. "release on personal recognizance" or "release
24 on own recognizance" means the release of a defendant without
25 bail, bail bond or sureties upon [~~his~~] the defendant's promise

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1 to appear at all appropriate times;

2 I. "rules of civil procedure" means rules of civil
3 procedure for the district courts of the state of New Mexico,
4 as may be amended from time to time;

5 J. "rules of criminal procedure" means rules of
6 criminal procedure for the district courts, magistrate courts
7 and municipal courts adopted by the New Mexico supreme court,
8 as may be amended from time to time;

9 K. "misdemeanor" means any offense for which the
10 authorized penalty upon conviction is imprisonment in excess of
11 six months but less than one year; and

12 L. "petty misdemeanor" means any offense so
13 designated by law or if upon conviction a sentence of
14 imprisonment for six months or less is authorized."

15 Section 2. Section 41-4-3 NMSA 1978 (being Laws 1976,
16 Chapter 58, Section 3, as amended) is amended to read:

17 "41-4-3. DEFINITIONS.--As used in the Tort Claims Act:

18 A. "board" means the risk management advisory
19 board;

20 B. "governmental entity" means the state or any
21 local public body as defined in Subsections C and H of this
22 section;

23 C. "local public body" means all political
24 subdivisions of the state and their agencies, instrumentalities
25 and institutions and all water and natural gas associations

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1 organized pursuant to Chapter 3, Article 28 NMSA 1978;

2 D. "law enforcement officer" means a full-time
3 salaried public employee of a governmental entity whose
4 principal duties under law are to hold in custody any person
5 accused of a criminal offense, to maintain public order or to
6 make arrests for crimes; a commissioned member of the New
7 Mexico mounted patrol who is assisting a law enforcement agency
8 in accordance with Section 29-6-4 or 29-6-5 NMSA 1978 or who is
9 called into service by the governor in accordance with Section
10 29-6-6 NMSA 1978; or [~~members~~] a member of the national guard
11 when called to active duty by the governor;

12 E. "maintenance" does not include:

13 (1) conduct involved in the issuance of a
14 permit, driver's license or other official authorization to use
15 the roads or highways of the state in a particular manner; or

16 (2) an activity or event relating to a public
17 building or public housing project that was not foreseeable;

18 F. "public employee" means an officer, employee or
19 servant of a governmental entity, excluding independent
20 contractors except for individuals defined in Paragraphs (7),
21 (8), (10) and (14) of this subsection, or of a corporation
22 organized pursuant to the Educational Assistance Act, the Small
23 Business Investment Act or the Mortgage Finance Authority Act
24 or a licensed health care provider, who has no medical
25 liability insurance, providing voluntary services as defined in

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1 Paragraph (16) of this subsection and including:

2 (1) elected or appointed officials;

3 (2) law enforcement officers;

4 (3) persons acting on behalf or in service of
5 a governmental entity in any official capacity, whether with or
6 without compensation;

7 (4) licensed foster parents providing care for
8 children in the custody of the human services department,
9 corrections department or department of health, but not
10 including foster parents certified by a licensed child
11 placement agency;

12 (5) members of state or local selection panels
13 established pursuant to the Adult Community Corrections Act;

14 (6) members of state or local selection panels
15 established pursuant to the Juvenile Community Corrections Act;

16 (7) licensed medical, psychological or dental
17 arts practitioners providing services to the corrections
18 department pursuant to contract;

19 (8) members of the board of directors of the
20 New Mexico medical insurance pool;

21 (9) individuals who are members of medical
22 review boards, committees or panels established by the
23 educational retirement board or the retirement board of the
24 public employees retirement association;

25 (10) licensed medical, psychological or dental

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1 arts practitioners providing services to the children, youth
2 and families department pursuant to contract;

3 (11) members of the board of directors of the
4 New Mexico educational assistance foundation;

5 (12) members of the board of directors of the
6 New Mexico student loan guarantee corporation;

7 (13) members of the New Mexico mortgage
8 finance authority;

9 (14) volunteers, employees and board members
10 of court-appointed special advocate programs;

11 (15) members of the board of directors of the
12 small business investment corporation; and

13 (16) health care providers licensed in New
14 Mexico who render voluntary health care services without
15 compensation in accordance with rules promulgated by the
16 secretary of health. The rules shall include requirements for
17 the types of locations at which the services are rendered, the
18 allowed scope of practice and measures to ensure quality of
19 care;

20 G. "scope of duty" means performing any duties that
21 a public employee is requested, required or authorized to
22 perform by the governmental entity, regardless of the time and
23 place of performance; and

24 H. "state" or "state agency" means the state of New
25 Mexico or any of its branches, agencies, departments, boards,

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1 instrumentality or institutions."

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